



Senate

General Assembly

File No. 612

January Session, 2005

Substitute Senate Bill No. 1263

Senate, May 2, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING COURT OPERATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-223a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 Any operator of a motor vehicle who strikes any officer, as defined
4 in section 14-1, or any fire police officer, appointed in accordance with
5 section 7-313a, with such motor vehicle while such officer or fire police
6 officer is engaged in traffic control or regulation, provided such officer
7 is in uniform or prominently displaying the badge of his office [,] and
8 such fire police officer is in compliance with the provisions of section
9 7-313a, [such operator shall be deemed to have committed an
10 infraction and] (1) shall be fined not less than one hundred fifty dollars
11 [nor] or more than two hundred dollars, and [,] (2) for a subsequent
12 offense, shall be fined not more than two hundred fifty dollars or
13 imprisoned not more than thirty days, or both.

14 Sec. 2. Section 14-295a of the general statutes is repealed and the
15 following is substituted in lieu thereof (*Effective October 1, 2005*):

16 An assessment of five dollars shall be imposed against any person
17 who is convicted of a violation of section 14-219, 14-222 or 14-227a
18 [who forfeits a cash bond or guaranteed bail bond certificate posted
19 under section 14-140a or under reciprocal agreements made with other
20 states for the alleged violation of any of said sections] or who pleads
21 nolo contendere to a violation of section 14-219 and pays the fine by
22 mail. Such assessment shall be in addition to any fee, cost or surcharge
23 imposed pursuant to any other provision of the general statutes. All
24 assessments collected pursuant to this section shall be deposited in the
25 General Fund and credited to the brain injury prevention and services
26 account established under section 14-295b.

27 Sec. 3. Subsection (e) of section 46b-15 of the general statutes is
28 repealed and the following is substituted in lieu thereof (*Effective*
29 *October 1, 2005*):

30 (e) The applicant shall cause notice of the hearing pursuant to
31 subsection (b) of this section and a copy of the application and the
32 applicant's affidavit and of any ex parte order issued pursuant to
33 subsection (b) of this section to be served on the respondent not less
34 than five days before the hearing. The cost of such service shall be paid
35 for by the judicial branch. Upon the granting of an ex parte order, the
36 clerk of the court shall provide two certified copies of the order to the
37 applicant. Upon the granting of an order after notice and hearing, the
38 clerk of the court shall provide two certified copies of the order to the
39 applicant and a copy to the respondent. Every order of the court made
40 in accordance with this section after notice and hearing shall contain
41 the following language: "This court had jurisdiction over the parties
42 and the subject matter when it issued this protection order.
43 Respondent was afforded both notice and opportunity to be heard in
44 the hearing that gave rise to this order. Pursuant to the Violence
45 Against Women Act of 1994, 18 USC 2265, this order is valid and
46 enforceable in all fifty states, any territory or possession of the United

47 States, the District of Columbia, the Commonwealth of Puerto Rico
48 and tribal lands." Immediately after making service on the respondent,
49 the proper officer shall [provide a true and attested copy of any ex
50 parte order, including the applicant's affidavit and a cover sheet] send
51 or cause to be sent, by facsimile or other means, a copy of the
52 application stating the date and time the respondent was served, to the
53 law enforcement agency or agencies for the town in which the
54 applicant resides, [. If the respondent does not reside in such town, the
55 proper officer shall immediately transmit by facsimile a true and
56 attested copy of the order, including the applicant's affidavit, to the
57 law enforcement agency for] the town in which the applicant is
58 employed and the town in which the respondent resides. The clerk of
59 the court shall send, by facsimile or other means, a copy of any ex
60 parte order and of any order after notice and hearing, or the
61 information contained in any such order, to the law enforcement
62 agency or agencies for the town in which the applicant resides, [and, if
63 the respondent resides in a town different than the town in which the
64 applicant resides, to the law enforcement agency for] the town in
65 which the applicant is employed and the town in which the
66 respondent resides, within forty-eight hours of the issuance of such
67 order. [If the applicant is employed in a town different than the town
68 in which the applicant resides, the clerk of the court shall send, by
69 facsimile or other means, a copy of any such order, or the information
70 contained in any such order, to the law enforcement agency for the
71 town in which the applicant is employed within forty-eight hours of
72 the issuance of such order. If the applicant is employed in a town
73 different than the town in which the applicant resides, or in which the
74 respondent resides, the proper officer shall transmit by facsimile a true
75 and attested copy of any such order, including the applicant's affidavit,
76 to the law enforcement agency for the town in which the applicant is
77 employed.]

78 Sec. 4. Section 51-36 of the general statutes is repealed and the
79 following is substituted in lieu thereof (*Effective October 1, 2005*):

80 (a) The Chief Court Administrator may cause any and all court

81 records, papers or documents, [other than records concerning title to
82 land,] required to be retained indefinitely or for a period of time
83 defined by (1) rules of court, (2) directives promulgated by the Office
84 of the Chief Court Administrator, or (3) statute, to be microfilmed. The
85 device used to reproduce such records, papers or documents on
86 microfilm shall be one which accurately reproduces the original
87 thereof in detail. Such microfilm shall be considered and treated the
88 same as the original records, papers or documents, provided a
89 certificate of authenticity appears on each roll of microfilm. A
90 transcript, exemplification or certified copy thereof shall for all
91 purposes be deemed to be a transcript, exemplification or certified
92 copy of the original. The original court records, papers or documents
93 so reproduced may be disposed of in such manner as approved by the
94 Office of the Chief Court Administrator. For the purposes of this
95 subsection, "microfilm" includes microcard, microfiche,
96 microphotograph, electronic medium or any other process which
97 actually reproduces or forms a durable medium for so reproducing the
98 original.

99 (b) Except as provided in subsection (c) of this section, any judge of
100 the Superior Court may order that official records of evidence or
101 judicial proceedings in said court, the Court of Common Pleas or the
102 Circuit Court, including official notes and tapes of evidence or judicial
103 proceedings concerning title to land, taken more than seven years prior
104 to the date of such order by any stenographer or official court reporter,
105 be destroyed by the person having the custody thereof.

106 (c) (1) In [cases] any case in which a person has been convicted after
107 trial of a felony, other than a capital felony, the official records of
108 evidence or judicial proceedings in the court may be destroyed upon
109 the expiration of twenty years from the date of disposition of such case
110 or upon the expiration of the sentence imposed upon such person,
111 whichever is later.

112 (2) In [cases] any case in which a person has been convicted after
113 trial of a capital felony, the official records of evidence or judicial

114 proceedings in the court may be destroyed upon the expiration of
115 seventy-five years from the conviction of such person.

116 (3) In any case in which a person has been found not guilty, or in
117 any case that has been dismissed or was not prosecuted, the court may
118 order the return or destruction of all exhibits entered in such case upon
119 the expiration of ninety days from the final disposition of such case,
120 unless a prior disposition has been ordered pursuant to section 54-36a.
121 In any case in which a nolle has been entered, the court may order the
122 destruction of all exhibits entered in such case upon the expiration of
123 thirteen months from the final disposition of such case. Not less than
124 thirty days prior to the scheduled destruction under this subdivision,
125 the clerk of the court shall send notice to all parties and any party may
126 request a hearing on such destruction before the court making such
127 order.

128 (4) In any case in which a person has been convicted after trial of a
129 misdemeanor or has been adjudicated a youthful offender, or in any
130 case in which the defendant entered a plea of guilty or nolo
131 contendere, the court may order the destruction of all exhibits entered
132 in such case upon the expiration of ninety days following the final
133 disposition of such case, unless a prior disposition has been ordered
134 pursuant to section 54-36a. Not less than thirty days prior to the
135 scheduled destruction under this subdivision, the clerk of the court
136 shall send notice to all parties and any party may request a hearing on
137 such destruction before the court making such order.

138 (5) This subsection shall not apply to any biological evidence
139 required to be preserved under section 54-102jj that has been entered
140 as an exhibit. This subdivision and subdivisions (3) and (4) of this
141 subsection shall apply to any criminal or motor vehicle case disposed
142 of before, on or after the effective date of this section.

143 (d) All court records other than records concerning title to land may
144 be destroyed in accordance with rules of court. Records concerning
145 title to land shall not be subject to any such destruction and may be
146 retained in an electronic format, except that official notes and tapes of

147 evidence or judicial proceedings concerning title to land may be
148 destroyed. All court records may be transferred to any agency of this
149 state or to any federal agency in accordance with rules of court or
150 directives promulgated by the Office of the Chief Court Administrator,
151 provided records in any action concerning title to land terminated by a
152 final judgment affecting any right, title or interest in real property shall
153 be retained for not less than forty years in the office of the clerk of the
154 court location in which the judgment was rendered. Any other judicial
155 branch books, records, papers or documents may be destroyed or
156 transferred to any agency of this state or to any federal agency in
157 accordance with directives promulgated by the Office of the Chief
158 Court Administrator.

159 (e) For the purposes of this section, "official records of evidence or
160 judicial proceedings" includes (1) the court file, that contains the
161 original documents or copies of any original documents that have been
162 removed, (2) all exhibits from the parties, whether marked for
163 identification or admitted as full exhibits, and (3) the transcripts of all
164 proceedings held in the matter, including voir dire.

165 Sec. 5. Subsection (b) of section 51-164n of the general statutes is
166 repealed and the following is substituted in lieu thereof (*Effective*
167 *October 1, 2005*):

168 (b) Notwithstanding any provision of the general statutes, any
169 person who is alleged to have committed (1) a violation under the
170 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-
171 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-
172 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292, or 12-326g,
173 subdivision (4) of section 12-408, subdivision (3), (5) or (6) of section
174 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-
175 113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-
176 143b, 13a-247 or 13a-253, subsection (f) of section 13b-42, section 13b-
177 90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or
178 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414,
179 subsection (d) of section 14-12, section 14-20a or 14-27a, subsection (e)

180 of section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49,
181 14-50a or 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b
182 or 14-67a, subsection (g) of section 14-80, subsection (f) of section 14-
183 80h, section 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152,
184 14-153 or 14-163b, a first violation as specified in subsection (f) of
185 section 14-164i, section 14-219 as specified in subsection (e) of said
186 section, subdivision (1) of section 14-223a, as amended by this act,
187 section 14-240, 14-249 or 14-250, subsection (a), (b) or (c) of section 14-
188 261a, section 14-262, 14-264, 14-267a, 14-269, 14-270, 14-275a, 14-278 or
189 14-279, subsection (e) of section 14-283, section 14-291, 14-293b, 14-319,
190 14-320, 14-321, 14-325a, 14-326, 14-330 or 14-332a, subdivision (1), (2) or
191 (3) of section 14-386a, section 15-33, subsection (a) of section 15-115,
192 section 16-256, 16-256e, 16a-15 or 16a-22, subsection (a) or (b) of section
193 16a-22h, section 17a-24, 17a-145, 17a-149, 17a-152, 17a-465, 17a-642,
194 17b-124, 17b-131, 17b-137 or 17b-734, subsection (b) of section 17b-736,
195 section 19a-30, 19a-33, 19a-39 or 19a-87, subsection (b) of section 19a-
196 87a, section 19a-91, 19a-105, 19a-107, 19a-215, 19a-219, 19a-222, 19a-224,
197 19a-286, 19a-287, 19a-297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338,
198 19a-339, 19a-340, 19a-425, 19a-502, 20-7a, 20-14, 20-158, 20-231, 20-257,
199 20-265 or 20-324e, subsection (a) of section 20-341, section 20-341l, 20-
200 597, 20-608, 20-610, 21-30, 21-38, 21-39, 21-43, 21-47, 21-48, 21-63, 21-
201 76a, 21a-21, 21a-25, 21a-26 or 21a-30, subsection (a) of section 21a-37,
202 section 21a-46, 21a-61, 21a-63 or 21a-77, subsection (b) of section 21a-
203 79, section 21a-85, 21a-154, 21a-159, 21a-201, 21a-211, 22-13, 22-14, 22-
204 15, 22-16, 22-29, 22-34, 22-35, 22-36, 22-37, 22-38, 22-39, 22-39a, 22-39b,
205 22-39c, 22-39d, 22-39e, 22-49, 22-54, 22-61, 22-89, 22-90, 22-98, 22-99, 22-
206 100, 22-111o, 22-279, 22-280a, 22-318a, 22-320h, 22-324a, 22-326 or 22-
207 342, subsection (b) or (e) of section 22-344, section 22-359, 22-366, 22-
208 391, 22-413, 22-414, 22-415, 22a-66a or 22a-246, subsection (a) of section
209 22a-250, subsection (e) of section 22a-256h, subsection (a) of section
210 22a-381d, section 22a-449, 22a-461, 23-37, 23-38, 23-46 or 23-61b,
211 subsection (a) or (b) of section 23-65, section 25-37, 25-40, 26-19, 26-21,
212 26-31, 26-40, 26-40a, 26-49, 26-54, 26-59, 26-61, 26-64, 26-79, 26-89, 26-97,
213 26-107, 26-117, 26-128, 26-131, 26-132, 26-138, 26-141, 26-207, 26-215, 26-
214 224a, 26-227, 26-230, 26-294, 28-13, 29-6a, 29-109, 29-161y, 29-161z, 29-

198, 29-210, 29-243, 29-277, 29-316, 29-318, 29-341, 29-381, 30-48a, 30-86a, 31-3, 31-10, 31-11, 31-12, 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25, 31-28, 31-32, 31-36, 31-38, 31-38a, 31-40, 31-44, 31-47, 31-48, 31-51, 31-51k, 31-52, 31-52a or 31-54, subsection (a) or (c) of section 31-69, section 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b or 31-134, subsection (i) of section 31-273, section 31-288, 36a-787, 42-230, 45a-450, 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-54, section 46a-59, 46b-22, 46b-24, 46b-34, 47-34a, 47-47, 49-8a, 49-16 or 53-133, subsection (a) or (b) of section 53-211, or section 53-212a, 53-249a, 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-321, 53-322, 53-323, 53-331, 53-344 or 53-450, or (2) a violation under the provisions of chapter 268, or (3) a violation of any regulation adopted in accordance with the provisions of section 12-484, 12-487 or 13b-410, shall follow the procedures set forth in this section.

Sec. 6. Subsection (a) of section 52-185 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) If the plaintiff in any civil action is not an inhabitant of this state, or if it does not appear to the authority signing the process that the plaintiff is able to pay the costs of the action should judgment be rendered against him, the plaintiff shall [before the process is signed,] enter into a recognizance to the adverse party with a financially responsible inhabitant of this state as surety, or a financially responsible inhabitant of this state shall enter into a recognizance to the adverse party, that the plaintiff shall prosecute his action to effect and answer all costs for which judgment is rendered against him. The recognizance shall not be discharged by any amendment or alteration of the process between the time of signing and of serving it.

Sec. 7. Subsection (a) of section 54-1d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Except as provided in subsections (b) and (c) of this section, defendants in criminal actions shall be brought [either] for

248 arraignment to the court in the geographical area, established pursuant
249 to section 51-348, in which the crime was alleged to have been
250 committed, or, if the arrest was by warrant, to the court in the
251 geographical area in which the arrest was made, [for arraignment] or,
252 if the defendant is arrested on a warrant issued pursuant to section
253 53a-32 or for failure to appear as provided in section 53a-172 or 53a-
254 173, to the superior court having jurisdiction over the underlying
255 criminal prosecution. If the defendant was brought to the court in the
256 geographical area in which the arrest was made for arraignment and
257 was not released from custody after such arraignment, the defendant
258 shall be presented to the court in the geographical area in which the
259 crime was alleged to have been committed not later than the second
260 court day following such arraignment. A criminal cause shall not fail
261 on the ground that it has been submitted to a session of improper
262 venue.

263 Sec. 8. Section 54-64d of the general statutes is repealed and the
264 following is substituted in lieu thereof (*Effective October 1, 2005*):

265 (a) When any person is taken into custody on a capias issued by
266 order of the Superior Court, the proper officer or state police officer
267 taking the person into custody shall, without undue delay, bring such
268 person before the court [which] that issued the capias.

269 (b) If a courthouse lockup operated by the judicial branch is
270 available at [such] the court that issued the capias and is operational at
271 the time the proper officer or state police officer brings [such] the
272 person taken into custody to the court, the proper officer or state police
273 officer shall transfer the custody of such person to a judicial marshal at
274 the court unless such person requires medical attention or there is
275 insufficient space for such person at such lockup. [If the court is not in
276 session, the proper officer shall, without undue delay, bring such
277 person before the clerk or assistant clerk of the court which issued the
278 capias during the office hours of the clerk. If the clerk's office is not
279 open, the proper officer shall, without undue delay, take such person
280 to a community correctional center within the judicial district where

281 the capias was issued or, if there is no community correctional center
282 within such judicial district, to the nearest community correctional
283 center.]

284 (1) If the court is in session, the judicial marshal shall present such
285 person before the court. If the court is not in session but the clerk's
286 office is open, the judicial marshal shall present such person before the
287 clerk or assistant clerk or a person designated by the Chief Court
288 Administrator.

289 (2) If the court is not in session and the clerk's office is closed, and
290 such person indicates to the judicial marshal that he or she can meet
291 the conditions of release fixed by the court, the judicial marshal shall,
292 without undue delay, either (A) transport such person to a community
293 correctional center within the judicial district or, if there is no
294 community correctional center within the judicial district, to the
295 nearest community correctional center, for the purpose of entering into
296 the condition of release fixed by the court, or (B) if more expedient,
297 hold the person in custody until the clerk's office is open or the next
298 session of the court, for the purpose of entering into the condition of
299 release fixed by the court. If such person does not indicate to the
300 judicial marshal that he or she can meet the conditions of release fixed
301 by the court, the judicial marshal shall hold the person in custody until
302 the clerk's office is open or the next session of the court, for the
303 purpose of entering into the condition of release fixed by the court.

304 (c) If a courthouse lockup operated by the judicial branch is not
305 available at the court that issued the capias, or is available but is not
306 operational or has insufficient space, the proper officer or state police
307 officer taking the person into custody shall, without undue delay,
308 transport such person to a community correctional center within the
309 judicial district or, if there is no community correctional center within
310 the judicial district, to the nearest community correctional center for
311 the purpose of entering into the condition of release fixed by the court.

312 (d) The clerk or assistant clerk or a person designated by the
313 Commissioner of Correction or by the Chief Court Administrator shall

314 order the person taken into custody on the capias to enter into the
 315 condition of release fixed by the court on the condition that such
 316 person shall appear before the next session of the superior court
 317 [which] that issued the capias. Upon the failure of such person to enter
 318 into the condition of release fixed by the court, the person shall be held
 319 in the correctional center pursuant to the capias until the next session
 320 of the court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	14-223a
Sec. 2	<i>October 1, 2005</i>	14-295a
Sec. 3	<i>October 1, 2005</i>	46b-15(e)
Sec. 4	<i>October 1, 2005</i>	51-36
Sec. 5	<i>October 1, 2005</i>	51-164n(b)
Sec. 6	<i>October 1, 2005</i>	52-185(a)
Sec. 7	<i>October 1, 2005</i>	54-1d(a)
Sec. 8	<i>October 1, 2005</i>	54-64d

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - Cost / Savings	Minimal	Minimal
Public Safety, Dept.	GF - Potential Savings	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various minor and technical changes that would result in a minimal fiscal impact to the Judicial Department and potential, minimal savings to the Department of Public Safety.

OLR Bill Analysis

sSB 1263

AN ACT CONCERNING COURT OPERATIONS**SUMMARY:**

This bill makes numerous changes in laws relating to court operations. Specifically, it:

1. requires a \$5 assessment to be imposed against people who are convicted of speeding, reckless driving, or driving under the influence and eliminates the requirement that the assessment be imposed against people who are charged with these offenses and who forfeit a cash bond or guaranteed bail bond certificate posted under state law or under reciprocal agreements made with other states (§ 2);
2. makes changes to the notice requirements regarding protective orders (§ 3);
3. allows court records concerning title to land to be filed electronically and permits the destruction of the paper records after entry into an electronic file (§ 4);
4. establishes a process for the destruction of exhibits, except biological evidence, in certain criminal cases (§ 4);
5. requires that a first offense of striking an officer with a motor vehicle follow the procedure used for infractions (§§ 1 and 5);
6. allows a person filing a lawsuit to post a bond either before or after the writ, summons, and complaint is signed instead of requiring it before (§ 6);
7. requires that defendants arrested for a violation of probation or conditional discharge, or failure to appear be brought for arraignment to the court that has jurisdiction over the underlying case instead of to the court where the crime occurred or the court in the geographical area where the arrest

was made (§ 7);

8. makes several changes to the rules regarding transporting a defendant to a correctional facility to post bail; and
9. makes several technical changes.

EFFECTIVE DATE: October 1, 2005

PROTECTIVE ORDERS (§ 3)

By law, after the court grants a protective order, the clerk must provide two certified copies of the order to the applicant and a copy to the respondent (person the order is against). Under current law, immediately after a proper officer makes service on the respondent, he must provide a true and attested copy of any ex parte order, including the applicant's affidavit and a cover sheet stating the date and time the respondent was served, to the law enforcement agency for the town in which the applicant resides and works and the respondent resides. (An ex parte order is one that was granted in connection with a judicial proceeding in which the opposing party did not receive notice and was not present.)

The bill eliminates the duty to provide a copy of any ex parte order, including the applicant's affidavit, and specifies that the officer may send or cause to be sent, by facsimile or other means, a copy of the application stating the date and time the respondent was served.

The bill also applies these requirements to protective orders issued after a hearing.

Current law, unchanged by the bill, requires the court clerk to send by fax or other means a copy of any order, or the information contained in the order, to the law enforcement agency or agencies where the applicant resides and works and where the respondent resides within 48 hours after the order was issued.

RETENTION AND DESTRUCTION OF COURT RECORDS (§ 4)

The bill authorizes the chief court administrator to microfilm any court records, papers, or documents concerning title to land, required to be retained indefinitely or for a period of time defined by (1) court rules,

(2) directives promulgated by the Office of the Chief Court Administrator, or (3) statute. He may already do so for records, papers, and documents relating to other things.

The bill also authorizes the court, in any case in which someone has been found not guilty, or in any case that has been dismissed or not prosecuted, to order the destruction of all exhibits entered in the case 90 days after the final disposition, unless the court has already authorized another disposition under other law. It authorizes the court, in any case in which a nolle has been entered, to order the destruction of all exhibits entered in such case 13 months after the final disposition. The court clerk must send notice to all parties at least 30 days before the scheduled destruction, and any party may ask for a hearing before the court making the order.

The bill authorizes the court, in any case in which a person has (1) been convicted after trial of a misdemeanor, (2) been adjudicated a youthful offender, or (3) entered a plea of guilty or no contest, to order the destruction of all exhibits entered in the case 90 days after the final disposition, unless a prior disposition has been ordered. The court clerk must send notice to all parties at least 30 days before the scheduled destruction, and any party may request a hearing on such destruction before the court.

The bill specifies that this authority does not apply to any biological evidence required to be preserved by law that has been entered as an exhibit.

This authority applies to any criminal or motor vehicle case disposed of before, on, or after October 1, 2005.

STRIKING AN OFFICER WITH A MOTOR VEHICLE (§ 5)

The bill requires that a first offense of striking an officer with a motor vehicle be processed as an infraction, which allows the defendant to pay the fine by mail without a court appearance. A person commits this offense if he strikes certain officers, including a fire police officer, with a motor vehicle while the officer is engaged in traffic control or regulation, if he is in uniform or prominently displays his badge, and the fire police officer was complying with the law. The first offense carries a fine of \$150 to \$250. (As under current law, a subsequent offense carries a fine of up to \$250, imprisonment for up to 30 days, or

both.)

TRANSPORTATION OF DEFENDANT TO CORRECTIONAL FACILITY TO POST BOND (§ 8)

By law, when any person is taken into custody on a *capias* (court order directing that a person be brought before the court) issued by the Superior Court, the proper officer taking the person into custody must, without undue delay, bring the person before the court that issued the *capias*. The bill specifies that this requirement also applies to a state police officer that takes a person into custody.

By law, if a courthouse lockup operated by the Judicial Branch is available at the court that issued the *capias* and is operational at the time the officer brings the person to the court, the officer must transfer the custody of the person to a judicial marshal at the court unless the person requires medical attention or there is insufficient space for him at the lockup.

Under current law, if the court is not in session, the officer must, without undue delay, bring him before the clerk or assistant clerk of the court that issued the *capias* during the clerk's office hours. If the clerk's office is not open, the officer must, without undue delay, take him to a community correctional center within the judicial district where the *capias* was issued or, if there is no community correctional center within such judicial district, to the nearest community correctional center.

Under the bill, if the court is in session, the judicial marshal must present the arrested person before the court. If the court is not in session but the clerk's office is open, the judicial marshal must present him before the clerk or assistant clerk or a person the chief court administrator designated.

If the court is not in session and the clerk's office is closed, and the arrested person indicates to the judicial marshal that he cannot meet the conditions of release fixed by the court, the judicial marshal must immediately either:

1. transport him to a community correctional center within the judicial district or, if none, to the nearest community correctional center, to set conditions of release, or

2. if it is more expedient, hold the person in custody until the clerk's office is open or the next session of the court, to set conditions of release.

If the person does not indicate to the judicial marshal that he cannot meet the conditions of release the court established, the judicial marshal must hold him in custody until the clerk's office is open or the next session of the court, for the purpose of setting conditions of release.

If a courthouse lockup the Judicial Branch operates is not available at the court that issued the arrest warrant, or is available but not operational or has insufficient space, the proper officer or state police officer taking the person into custody must, without undue delay, transport him to a community correctional center within the judicial district or, if none, to the nearest community correctional center to satisfy the release conditions the court set.

BACKGROUND

Protective Orders

Any family or household member who has been subjected to a continuous threat of present physical pain or injury by another family or household member or person he was dating may apply to the Superior Court for a protective order (CGS § 46b-15).

The court, after a hearing, may make whatever orders it deems appropriate to protect the applicant, any dependent children, or others. The order may enjoin the respondent from (1) imposing any restraint on the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the applicant; or (3) entering the applicant's dwelling. If an applicant alleges an immediate and present physical danger, the court may issue an ex parte order.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0

